

**STATEMENT OF ANNETTE SANDBERG, ADMINISTRATOR  
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BEFORE THE HOUSE COMMITTEE ON TRANSPORTATION AND  
INFRASTRUCTURE  
SUBCOMMITTEE ON HIGHWAYS, TRANSIT AND PIPELINES  
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Chairman Petri, Ranking Member DeFazio, and Members of the Subcommittee, thank you for inviting me today to discuss the Federal Motor Carrier Safety Administration's (FMCSA) oversight role in curbside bus operations. I am pleased to appear before you to discuss FMCSA programs that will achieve our goal of improving bus safety on our nation's highways.

FMCSA was conceived out of the need for stronger commercial motor vehicle (CMV) safety – it is our mandate. Toward that goal, FMCSA is working to reduce the loss of life on our nation's highways.

Motorcoaches are one of the safest forms of commercial passenger transportation. According to FMCSA's Licensing & Insurance database, which houses information for all registered carriers, approximately 3,900 interstate motorcoach companies operate 35,000 motorcoaches in the United States. There are approximately 120,000 motorcoach drivers who have commercial driver's licenses (CDLs) with passenger endorsements. For the previous 10 calendar years, there has been a yearly average of 22.4 motorcoach occupant fatalities. For calendar years 2002-2005, each year's fatalities have been greater than the 10-year average. We must continue to work to reverse this trend. In my opinion, even **one** fatality is too many.

**SAFETEA-LU**

Safety is the hallmark of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) enacted last year. As a result, our Agency is making changes that will increase all CMV safety on our roads. They include the new National Registry of Certified Medical Examiners, Medical Review Board, and the revision of standards for diabetic drivers. Additionally, the medical certification rule required by the Motor Carrier Safety Improvement Act of 1999 (MCSIA) is to be published this summer. In addition, SAFETEA-LU requires FMCSA to act on several provisions that impact directly on motorcoach operations. Among these are the following:

- Establishing minimum levels of financial responsibility for all private motor carriers. Previously, for passenger carriers, a Federal insurance requirement has applied only to for-hire companies. Now, private motor carriers of passengers will become subject to some minimum level of financial responsibility. Organizations that operate a motorcoach for private use will now become subject to an insurance requirement.

- Funding for motorcoach inspections through our Motor Carrier Safety Assistance Program, known as MCSAP, shall only be used to conduct motorcoach inspections at stations, facilities, destinations, and other locations where the operator can make a safe, planned stop.

## **NATIONAL MOTORCOACH SAFETY PROGRAM**

FMCSA has established a National Motorcoach Safety Program with an emphasis on six areas: (1) increase the number of motorcoach compliance reviews (CRs), which are investigations of a company's safety practices; (2) develop and implement a separate CR prioritization system for motorcoach carriers; (3) establish formal motorcoach inspection programs within all States; (4) improve safety data; (5) reduce motorcoach fires; and (6) expedite safety audits of new entrant motorcoach carriers. Addressing each of these areas is essential to improving passenger vehicle safety.

### Motorcoach Company Compliance Reviews

FMCSA has planned an increase in the number of compliance reviews conducted on motorcoach companies. In FY 2005, FMCSA and our State partners conducted 457 motorcoach CRs, surpassing our established goal of 375. Our goal for FY 2006 is 450 CRs, a 20% increase from the previous year's goal. As in 2005, we have every confidence that we will meet and likely exceed this goal. Further increases are planned for future fiscal years.

### Passenger Carrier Compliance Review Prioritization System

FMCSA has developed a quantitative, analytical system with the Volpe Center to prioritize motorcoach companies for a possible CR. The initiation of a CR is based on poor safety performance data in one or more of our safety evaluations areas—crashes, driver, vehicle, and safety management. FMCSA chose to develop a separate system for prioritizing motorcoach carriers for two reasons: 1) the availability of motorcoach safety data is more limited than that of property carriers because of infrequent roadside safety inspections and fewer CRs; and 2) the belief that bus companies should receive more program attention and enforcement resources. This approach aligns our selection criteria with the National Transportation Safety Board (NTSB) recommendation that FMCSA revise the SafeStat system to compare passenger carriers with one another. Justification is warranted for a separate system, given the potentially higher risk associated with the transportation of people as opposed to commodities. FMCSA will implement the passenger carrier CR prioritization system during this calendar year.

### Motorcoach Inspections

While all States conduct motorcoach inspections, not every State has a formal motorcoach inspection program. By way of memorandum, FMCSA will require State agencies that receive MCSAP grant funds to revise their commercial vehicle safety plans (CVSPs) to include a bus inspection program. The CVSP is the State's plan to execute MCSAP grant money and defines the State's inspection and enforcement activities for the coming year.

FMCSA will conduct a meeting with our MCSAP partners in early May to discuss this issue. States will be encouraged to increase the number of carrier reviews conducted at bus companies as well as roadside inspections, especially inspections that cover both the vehicle and driver.

### Improved Safety Data

Safety data are important for FMCSA to employ our resources effectively and efficiently. In the past three years, there have been significant improvements in the timeliness and quantity of our motorcoach safety data, largely through a series of recent inspection and compliance review strike forces. These strike forces are short-term, intensive enforcement activities in a limited area. These differ from task forces, which coordinate multiple strike force activities across a larger geographic area. Having accurate and complete data about the bus companies we regulate is vital to our safety mission. The more plentiful, timely, and reliable the data, the more effective the Agency will be in identifying those carriers with serious safety problems. We want to develop annual trend data on various types of crashes and highway use. Presently, we are conducting a Bus Crash Causation Study, mandated by MCSIA, to determine the reasons for and the factors contributing to serious bus crashes.

### Motorcoach Fires

Another important aspect of our safety program relates to the problem of motorcoach fires. These fires occur nationwide from New York to Texas. It is likely that the NTSB investigation of the 2005 Hutchins, Texas, motorcoach fire, in which 23 people died, will result in recommendations to FMCSA. Presently, FMCSA is taking action to address bus fires. To this end, we have recently approached the National Highway Traffic Safety Administration about a coordinated data sharing program between our two agencies to more quickly identify and correct vehicle safety problems. Recently, motorcoach fires involving curbside bus companies have received media attention. FMCSA has found that bus fires are a chronic problem throughout the entire industry and are not limited to curbside bus companies. We are working together with NHTSA to identify the causes of these fires. Once they are identified our agencies will take appropriate action.

### New Entrant Passenger Carriers

Addressing new entrant passenger carriers is a major challenge. Of the 40-50,000 new carriers each year, several hundred of these are new entrant passenger carriers. Research has shown that new entrant motor carriers have significantly more non-compliance and a higher crash rate than other motor carriers. We perform on-site audits of these new carriers to assess their safety status, educate them regarding their safety compliance responsibilities, and, in the case of passenger carriers, inform them of their Americans with Disabilities Act (ADA) accessibility responsibilities. FMCSA has implemented a new entrant program policy that makes passenger carriers a greater safety priority. New entrant passenger carriers are now subject to an on-site safety audit within 9 months of beginning operations instead of the usual 18 months for other motor carriers. Where we have indicators of safety problems,

Mr. Chairman, we go in immediately. Finally, we are working on a proposed rule to strengthen new entrant program standards across the truck and bus industries.

## **NORTHEAST CORRIDOR TASK FORCE**

FMCSA has taken important steps in enforcing regulations that apply to curbside bus operators that provide fixed-route service among major cities in the northeast such as New York, NY, Boston, MA, Philadelphia, PA, and Washington, DC. In December 2003, FMCSA organized a task force to examine these companies. Some were providing for-hire fixed-route bus transportation without proper operating authority and/or adequate insurance. This marked the first time FMCSA had organized a task force to address a specific sector of the passenger carrier industry. At present, FMCSA has identified 24 curbside bus companies that are domiciled in the Northeast corridor. These companies operate approximately 200 motorcoaches. Sixteen of these curbside companies are assigned a satisfactory safety rating, two are assigned conditional ratings, and six are not rated. FMCSA plans to conduct compliance reviews and assign safety ratings to these six companies in the near future.

The task force has worked with State and local agencies in addressing curbside bus companies. As a result of the task force's work, the City of Boston limited pick-up and drop-off locations for motorcoaches, outlawing curbside pick-ups for fixed-route bus companies in August 2004. The New York City Police Department organized an inspection strike force that conducted driver and vehicle inspections of these bus companies. To date, FMCSA has conducted 28 CRs and prepared 15 enforcement cases in connection with the task force. Our field offices in Massachusetts, New York, New Jersey, Pennsylvania, and the District of Columbia are participating in the task force.

FMCSA investigators have found instances of curbside bus companies doing business for one another using the same trade name. Often the name on the bus is not the company providing transportation. When the media and industry access our on-line database using the bus' trade name, they may find the carrier to be "inactive," and assume the carrier does not have authority. We are working with these carriers to update the information in our database so that the carrier providing transportation will be easily identifiable.

In October 2005, FMCSA organized a bus inspection strike force in the Northeast corridor that resulted in 403 inspections. Many of these inspections were conducted on curbside bus companies. In December 2005, FMCSA's Passenger Technical Advisory Group, a specialized group of field investigators, conducted a bus company CR strike force along the Northeast Corridor. The strike force conducted CRs on 14 bus companies in the States of Massachusetts, New York, Pennsylvania, Maryland, and in the District of Columbia. Eight of these companies were curbside carriers. Of the CRs conducted on these curbside carriers, six resulted in satisfactory safety ratings and three in enforcement actions, which can occur simultaneously with a satisfactory safety rating. The most common violations were related to drug and alcohol testing. FMCSA has found that some small bus companies do not comply with drug and alcohol testing regulations because this testing is sometimes regarded as unnecessary if the company owner knows the driver personally. During the CRs, our investigators documented the compliance status with ADA regulations for over-the-road

buses. Documentation was forwarded to the Department of Justice for further action if necessary. FMCSA has found the use of multi-jurisdictional strike forces to be an effective tool in identifying and apprehending unsafe carriers.

## **ADA REGULATIONS FOR OVER-THE-ROAD BUSES**

In September 1998, the Department of Transportation amended its ADA regulations to require accessible over-the-road bus service. The regulations ensure accessible, timely over-the-road bus service for passengers with disabilities, including wheelchair users. These regulations apply to intercity and fixed route bus operators and to demand responsive or charter operators. Fifty percent of the fleet of large fixed route bus companies must be accessible by October 2006 and 100% by October 2012. Small fixed route bus companies have no compliance deadline but must ensure their new buses are accessible and that they provide accessible bus service to passengers with disabilities on a 48-hour advance notice basis. Demand responsive or charter operators are not subject to the fleet accessibility requirements but must provide accessible service on 48-hour advance notice.

In short, an accessible bus fleet is the responsibility of large fixed route bus companies but not of other bus companies. A frequent complaint is that curbside bus companies operate in non-compliance with ADA regulations. According to MCMIS census data, small fixed route bus companies presently operating are by definition “small bus companies” because they have annual transportation revenues less than \$7.2 million. Only new buses must be accessible for small fixed route bus companies.

Noncompliance with ADA regulations is an issue throughout the bus industry; it is not limited to curbside bus companies. Based on the hundreds of telephone calls FMCSA receives from bus companies about ADA regulations, we have found they frequently do not understand their responsibility to provide timely, accessible bus service to individuals with disabilities.

FMCSA’s role under the ADA regulations is quite limited. The Department’s ADA regulations require over-the-road bus companies to submit multiple reports annually to FMCSA. These reports include information about the number of requests for accessible bus service, number of times these requests were met, number of new and used buses purchased or leased during the past year, number of accessible buses, and the total number of buses in each company’s fleet. Overall industry compliance with data reporting requirements has been low in part because there are no penalties for noncompliance. For the reporting period that ended September 30, 2005, approximately 21% of over-the road bus companies submitted at least one required report, a marked improvement over the 6% reporting rate in the years prior to 2004. FMCSA attributes this increase to letters we sent in October 2004 and 2005, reminding all known over-the-road bus companies of their reporting responsibilities. We will continue and strengthen this effort.

FMCSA does not have any authority to enforce ADA regulations within the industry. In general, DOJ enforcement of the ADA regulations has been limited to handling complaints.

The number of complaints from disabled individuals has been small since the ADA regulations were promulgated.

While DOJ is the only entity with the power to enforce violations of ADA regulations, the Department of Transportation has done much to assist its efforts. In addition to reminding motorcoach operators about their annual reporting requirements, FMCSA compiles and submits the industry data to DOJ. We provide DOJ with ADA bus accessibility complaints.

DOT's ADA regulations required the Department to begin reviewing the regulations for demand-responsive or charter bus companies in October 2005. A review of the ADA regulations for other over-the-road bus companies is required to begin in October 2006.

## **CONCLUSION**

Whether it be a senior citizens' group traveling to see the Grand Canyon, a scout troop going to Disney World, or a class trip to Washington, D.C., we must ensure our carriers provide the highest possible level of transportation safety. The traveling public expects motorcoach transportation to be fatality free – the loss of one passenger's life is unacceptable. Our safety partnership with the motorcoach industry is vital toward making our highways safer. Each motorcoach company's effort is needed to improve the safety of highway passenger transportation. Mr. Chairman, during my tenure at FMCSA I have worked hard to accomplish the goal of increased safety for our nation's traveling public. Thank you for giving me the opportunity to outline the work FMCSA is doing to make this segment of transportation safer. I would be happy to answer any questions you may have.